IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

NOTICE OF MOTION NO.2033 OF 2004
IN
APPEAL NO. 440 OF 2004
IN
NOTICE OF MOTION NO.621 OF 2003
IN
SUIT NO.1370 OF 2002

1. PRS Permacel Private Limited
& anr. .. Appellants

v/s.

1. Hatim Alihusein & ors. .. Respondents

Mr.Janak Dwarkadas, senior counsel i/by M/s. Cr. Bayley & Co.for appellants.

Mr.H.J. Thakkar, senior counsel with Mr. S.R.Simhan and Mr. S.K.Chari i/by M/s. K.Parikh & Co. for respondent Nos.1 to 3.

Mr.Aspi Chinoy, senior counsel with Mr. Prem Ranga for respondent No.4.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 10th August, 2004

P.C.

Heard the learned senior counsel for the appellants-applicants and the learned senior counsel for the respondent Nos.1 to 3.

2. Though the issue of jurisdiction is now subjudice in the appeal as the appeal has been admitted, yet in view of the fact that the subject property is in use, occupation and enjoyment of the present appellants, in our considered view, reasonable compensation needs to be deposited by the appellants. Obviously, this arrangement is

without prejudice to the rights and contentions of the parties in appeal and any other proceedings pending before any other court.

3. We, accordingly, pass the following order to remain operative until the disposal of the appeal:-

(i) The appellants shall deposit a sum of Rs.30,000/- every month from the month of August, 2004 and subsequent months with the Prothonotary & Senior Master of this court for the use, occupation and enjoyment of the subject property until the disposal of the appeal.

(ii) The sum of Rs.30,000/- for the month of August, 2004 shall be deposited on/or before 7th September, 2004 and for the subsequent months on/or before 7th of succeeding English calendar month.

(iii) The respondent Nos.1 to 3 shall be at liberty to withdraw the said amount subject to their undertaking before the Prothonotary & Senior

Master to bring back the said amount or any part thereof, as and when called upon to do so.

(iv) Upon compliance of the directions (i) and (ii), further proceedings in Suit No. 1370 of 2002 and the notice of motion No.1221 of 2002 in that suit shall remain stayed.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)